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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/030,889	08/21/2002	Pedro Teixidor Casanovas	7998-84085	6055

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22nd Floor
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Chicago, IL 60606-3913

EXAMINER

FOSTER, JIMMY G

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 04/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/030,889

Applicant(s)

TEIXIDOR CASANOVAS, PEDRO

Examiner

Jimmy G Foster

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 07 November 2001.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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1. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims 1-5 are indefinite as relying on the depictions of features shown in the drawings to constitute structure in the claim limitations. The indefiniteness is caused by such a reliance since it is unclear how much or how little of the detail of each such feature shown in the drawings is to be incorporated into the corresponding claim limitation. Inasmuch as the drawings may not be used as limitations in the claims, the drawing reference numerals in the lines of the claims are provided within parentheses.

However, Applicant's lack of a modifier (e.g. "a", "the", or "said") before the structural terms in the claims indicates that Applicant is attempting to use the drawings depictions as limitations. The claims are replete with occurrences of this problem. Each claim has this problem. While this Office action will attempt to indicate various examples of the places in the claims where this problem exists, it is fully Applicant's responsibility to amend all of the numerous occurrences of the problem. Applicant should review every location in which a parenthetical reference numeral is preceded by a term (or terms) of structure to determine whether the problem exists at that location. Examples of the problem occur at claim 1, line 7 with respect to the wording, "of end pieces (3)", at claim 1, line 9 with respect to the wording, "where first sector (8)", at claim 1, line 18 with respect to the wording, "where double upper ridges (15)", at claim 4, lines 3-4 with respect to the wording, "with sectors (10')", and at claim 5, line 14 with respect to the wording, "which limit base (1)".

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Related to the above problem and caused by the above problem, the claims are replete with occurrences of indefinite double recitation of subject matter which occurs when a term is re-mentioned in the claim but is not preceded by the term "the" or "said". This problem makes it unclear how many elements of a re-mentioned feature are being called for by the claim. For example, in claim 1, line 7, "end pieces (3)" is an indefinite double recitation of the end pieces already introduced in line 3 of the claim, making it unclear how many sets of end pieces are being called for by the claim. The occurrences of indefinite double recitation are too numerous to mention all. Applicant, however, is responsible for amending the claims so that each time a term or terms is re-mentioned in a claim it is preceded by "the" or "said".

The claims are also replete with occurrences of limitations, preceded by "the", which lack antecedent basis in the claim, which are too numerous to mention all; Applicant, however, is responsible to provide appropriate antecedent basis in the claims for each term of structure. The problem makes it unclear whether a particular feature claimed by the limitation is being recited as structure, or as function or intended use. Examples of this are at claim 1, line 3, wherein the limitation, "the base" lacks antecedent basis; claim 1, lines 13-14, wherein the limitation, "the corresponding end segment" lacks antecedent basis; and claim 1, line 17, wherein the limitation, "the inner and outer wall" lacks antecedent basis.

2. Claims 1-5 would be allowable if appropriately rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action. Regarding claim 1, line 3, the term "define" is

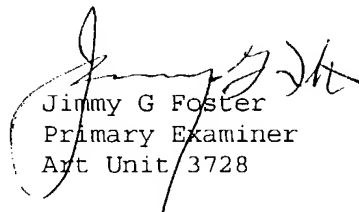
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interpreted as referring to both the embodiment made from a single sheet of cardboard and the embodiment made by five pieces of cardboard.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy G Foster whose telephone number is (703) 308-1505. The examiner can normally be reached on Mon-Fri, 8:45 am - 5:15 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (703) 308-2672. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.


Jimmy G Foster
Primary Examiner
Art Unit 3728

JGF
13 April 2004